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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
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Draft report

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II. Maintenance of international peace and security

A. Implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions

1. The Special Committee considered the question of the implementation of the provisions of the Charter of the United Nations relating to assistance to third States affected by the application of sanctions during the general exchange of views held at its 276th and 277th meetings, on 17 and 18 February 2015, and at the 1st and 3rd meetings of the Working Group of the Whole.

2. During the general exchange of views on the issue, many delegations reiterated their concern regarding the issue of sanctions imposed by the Security Council. It was reemphasized that sanctions should not be used as blunt instruments designed to punish the population of the target country and that they were not applicable as a response to all violations of international obligations. Several delegations also made reference to the document entitled "Introduction and implementation of sanctions imposed by the United Nations" (General Assembly resolution 64/115, annex).

3. Some delegations reaffirmed their concern over the imposition of unilateral sanctions in violation of international law. It was stated that, in practice, such sanctions were often imposed as a result of the extraterritorial application of national regulations and that they infringed upon the rights of affected States, in addition to the individual rights of affected persons.

4. Several delegations reemphasized that sanctions should be introduced and applied in conformity with the provisions of the Charter and international law. It was reiterated that they should be imposed only as a last resort when there existed a threat to international peace and security, a breach of the peace or an act of aggression. It was pointed out that double standards, selectivity and arbitrary

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methods had no place in the practice of the Security Council. Several delegations also stressed that the Council should not exceed its competence under the Charter when implementing sanctions.

5. Several delegations asserted that the objectives of sanctions regimes for a target country should be clearly defined, based on tenable legal grounds and imposed for a clear period. Some delegations voiced the opinion that the regimes should be kept under continuous review and lifted as soon as the objective of their imposition had been achieved.

6. Some delegations expressed support for examining the question of the provision of possible payment of compensation to targeted and/or third States for damage caused by sanctions found to have been unlawfully imposed. It was reiterated that the International Law Commission should give consideration, in the context of its prior work on the responsibility of international organizations, to the legal consequences of sanctions arbitrarily imposed against Member States by the Security Council.

7. Several delegations reaffirmed that targeted sanctions, applied in accordance with the Charter and in a targeted fashion, were an important instrument for the maintenance and restoration of international peace and security, and that the possibility of adverse consequences for civilian populations and third parties had been reduced. That was welcomed as a positive development.

8. Other delegations noted that targeted sanctions might still have unintended effects on civilian populations and on third States.

9. Several delegations noted that, as confirmed in the above-mentioned report of the Secretary-General, none of the sanctions committees had been approached by Member States since 2003 with regard to special economic problems arising from the implementation of sanctions. They also noted that neither the General Assembly nor the Economic and Social Council had found it necessary in 2014 to take any action relating to that matter. On those grounds, some delegations expressed the view that the question of assistance to third States affected by the application of sanctions should not be a matter of priority for the Special Committee and did not merit further discussion. It was said that, while the issue should not be viewed as a matter of priority, the subject should not be removed from the agenda of the Special Committee. The view was expressed that, in accordance with paragraph 3 (b) of Assembly resolution 69/122, in which the Assembly had requested the Special Committee to consider the frequency of the consideration of the item, a compromise could be reached by deciding to examine the item every three years.

10. At the 3rd meeting of the Working Group of the Whole, a proposal was introduced to consider the agenda item every three years rather than every year, except in those cases in which one or more third States finding themselves confronting special economic problems arising from the application of sanctions appealed for assistance, whereupon the Special Committee would consider the item at its next session. At the same time, the possibility of having annual briefings by the Secretariat was also mentioned.

11. Informal consultations to discuss the matter were requested, with some delegations voicing support for the proposal and others opposing it. The point was made that considering the item once every three years would not allow the Secretariat to hold annual briefings thereon.

12. In the view of some delegations, the issue of assistance to third States affected by the application of sanctions, and any proposals submitted thereon, should continue to be considered by the Special Committee annually. Some delegations pointed out that the fact that no State had required assistance on the subject should not lead to a general assumption that there were no difficulties.

Briefings

13. At its 1st meeting, the Working Group of the Whole received a briefing by representatives of the Department of Political Affairs and the Department of Economic and Social Affairs of the Secretariat on developments relating to paragraph 12 of the report of the Secretary-General on the question (A/69/119), as requested by the General Assembly in paragraph 16 of resolution 69/122.

14. Several delegations stated that the appropriate bodies of the Secretariat had the relevant authority, in accordance with General Assembly resolutions on the activities of the Special Committee, to undertake research and provide the Committee with further analysis of the current effects on third States of the application of sanctions in the next report of the Secretary-General on the topic. The representative of the Department of Economic and Social Affairs indicated that, in the absence of a request from either a Member State or a sanctions committee to evaluate the effect of the application of sanctions on third States, no country-specific examination could be carried out by the Secretariat without an appropriate mandate, adding that the Department's methods to assist third States affected by the application of sanctions were developed and applied on a case-by-case basis rather than being wide-ranging in nature. In response to a request that the relevant Secretariat bodies provide an all-encompassing assessment of the effect of the application of sanctions on third States, the representative of the Department reiterated that the Secretariat stood ready to respond to any request made by a sanctions committee, noting that confidential information needed to be released by the requesting committee for such an assessment to be made. The representative of the Department of Political Affairs added that the primary means of communication for Member States on questions of sanctions remained the relevant sanctions committees.

15. At its 3rd meeting, upon the request of several delegations, the Working Group of the Whole received a briefing by representatives of the Department of Political Affairs on the implementation of the document entitled "Introduction and implementation of sanctions imposed by the United Nations", as set out in the annex to General Assembly resolution 64/115. The representatives referred to the main elements of the document and responded to questions raised in that regard. While several delegations that viewed such briefings as useful and informative spoke in favour of their being held annually, others expressed the view that the substance of the briefings was focused on the implementation of sanctions more generally and did not correspond to the item under consideration.